IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5346 of 1999

Hon'ble MR.JUSTICE Y.B.BHATT

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

RAMESHBHAI KHANDUBHAI PATEL

Versus

S. T. CORPORATION

Appearance:

MR AS SUPEHIA for Petitioner

MR HARDIK RAVAL for respondent

CORAM : MR.JUSTICE Y.B.BHATT

Date of decision: 01/03/2000

ORAL JUDGEMENT

1. Rule. Mr. Hardik Raval waives service on behalf of the respondent.

2. This is a petition under Article 227 of the Constitution of India though styled as one under Articles 14, 16 and 226 of the Constitution, at the instance of

the workman-conductor employed by the respondent Guajrat State Road Transport Corporation, challenging the judgement and award of the Labour Court, Valsad in Reference (LCB) No.125/94.

3. The petitioner-conductor was subjected to a domestic inquiry and found guilty of not issuing tickets to a group of passengers although he had collected the fare, and as regards another passenger, having not issued a ticket and having not collected the fare. The disciplinary authority, therefore, passed an order of dismissal from service which came to be challenged by way of the reference in question.

4. After having appreciated the evidentiary material on record, including a detailed examination of the past service history and service record of the workman, the Labour Court came to the conclusion that inspite of similar misconducts in the past and inspite of progressively harsher punishments having been imposed, the workman has refused to improve his behaviour and conduct. The Labour Court, therefore, merely set aside the order of dismissal which had been passed by the disciplinary authority and directed reinstatement as if the workman was a fresh recruit appointed on the date of the award. It is this judgement and award which is the subject matter of the present petition.

5. Before proceeding further on the merits of the matter it is desirable to keep in mind the observations of the Supreme Court in the case of Mohmmad Yunus Vs. Mohammad Mustaqim (AIR 1984 SC 38) and Khali Ahmed Bashir Vs. Tufelhussein S. Sarangpurwala (AIR 1988 SC 184), on the question of the scope and ambit of the jurisdiction of this Court in the context of the powers which this Court may exercise under Article 227 of the Constitution. The Supreme Court has observed in the aforesaid two cases that the High Court, while examining a petition under Article 227 of the Constitution of India, cannot reappraised the evidence and cannot disturb the findings of fact recorded by the courts below except where the same are perverse, and even errors of law cannot be corrected.

6. On the facts and circumstances of the case it is found from the history sheet (default card) of the petitioner workman that he had committed six defaults in the past in respect of which five defaults pertain to financial irregularity in issuing tickets and collecting fares. In respect of the first default of this nature, a punishment of stoppage of five increments with permanent

effect was imposed, which apparently did not bring about any improvement.

7. Thereafter for a similar misconduct the petitioner workman was by way of punishment reduced to the lowest rank in his scale, which also did not have any salutary effect. Thereafter two or three other incidents of similar nature where only fine was imposed. Then comes the incident in question, in which the disciplinary authority imposed a punishment of dismissal, which has been modified by the judgement and award in question.

8. On the facts and circumstances of the case and having due regard to the evidentiary material on record to which my attention has been drawn, I am satisfied that the punishment imposed by the Labour Court is quite proper and meets the requirements of justice.

9. I see no reason to interfere with the order of punishment imposed by the Labour Court. The present petition is, therefore, dismissed and rule is discharged with no order as to costs.

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